APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,566	03/06/2001	Robert Olan Keith JR.	ABREAU-00107	4072

			EXAMINER
28960	7590	12/28/2005	NGUYEN, CAM LINH T

HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

ART UNIT	PAPER NUMBER
2161	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11 October 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 – 7, 9 – 15, 17 – 23, 25 – 29, and 31 - 32</u> is/are pending in the application.

    4a) Of the above claim(s) <u>8,16,24 and 30</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1 – 7, 9 – 15, 17 – 23, 25 – 29, and 31 - 32</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   In view of Appeal Brief filed on 10/11/2005, PROSECUTION IS HEREBY

REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office

action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a

supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or

other evidence are permitted. See 37 CFR 1.193(b)(2).

2.   Applicant's amendments to claims 1 – 32 are acknowledged. Currently, claims 1 – 7, 9 –

15, 17 – 23, 25 – 29, and 31 - 32 are pending.

Double Patenting

3.   The nonstatutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA

1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to

overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this

application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37

CFR 3.73(b).

4.   Claims 1 – 7, 9 – 15, 17 – 23, 25 – 29, and 31 – 32 are provisionally rejected under the

judicially created doctrine of obviousness-type double patenting as being unpatentable over

claims 1 – 2, 4- 13, 15 – 24, 26 – 26, 38 – 45 of copending Application 09/800,607; claims 1, 4 –

15, 17 – 25, 28 – 39, 41 – 49, 52 – 63, 65 – 73, 76 – 87, 89 - 96 of copending Application No.

09/801,138; claims 1 - 49 of copending Application No. 09/801,072; claims 1 – 4, 6 – 15, 18 –

27, 30 – 39, 42 – 51 of copending Application No. 09/801,076; claims 1 – 37 of copending

Application No. 09/800,592; claims 1, 3 – 12, 14 – 23, 25 – 34, 36 – 42 of copending

Application No. 09/799,032; Claims 1, 4 – 11, 14 – 21, 24 – 31, and 34 – 38 of copending

Application No. 09/801,140.

<div align="center">Claims Comparison Table</div>

'607	'076	'138	'072	'140
Claims				
1	1	1	1	1

'607	'032	'592	'566
Claims			
1	1	1	1

Most limitations in instant application can be found on copending ' 056, '592, '032, '072, '138,

'076, '140. For instance:

A query language string limitation is found in the instant applicant but not in other applications.

However, other limitations such as "formatting a searchable database", "accessing a node", " or

utilizing a search module" can be found in other applications. The query language string is a

command string and is not distinct from other command entered by the user. Therefore, the

Examiner considers the query language string is equivalent with other command that is entered

by the user.

Although the conflicting claims are not identical, they are not patentably distinct from each

other because it would have been prima facie obvious to one with ordinary skill in the art at the

time the invention was made to broaden the invention because this provides a wider application

of the invention with no additional cost in development.

This is a provisional obviousness-type double patenting rejection because the conflicting

claims have not in fact been patented.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

6.   Claims 1, 9, 17, 25, 31 and 32 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

When regarding in light of Fig. 1, the claim language "utilizing a search module" in limitation

(b) should be "utilizing a research module" since the invention, especially in Fig. 1,describes five

modules; namely Keyword search module, Parametric search module, Dichotomous key module,

Hierarchical tree module. It is not clear which search module that is being referred by in claim 1.

Therefore, renders the claim vague and indefinite.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 1 – 7, 9 – 15, 17 – 23, 25 – 29, and 31 - 32 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Wesinger Jr. et al (U.S. 5,778,367) in view of Anthony Stuart (U.S.

5,613,110).

◆ As per claims 1, 9, 17, 25, 31 – 32,

Wesinger teaches a method of accessing information in a searchable database comprising:

-   "The searchable database is formatted in a directory tree structure" See col. 10, lines 61 –

    62 of Wesinger.

-   "The directory tree structure includes nodes ... branches" See col. 10, lines 61 - 65. Each

    category corresponds to a node. All nodes are linked together.

- "Categorizing each item of data by a navigation path through the directory tree structure and by one or more parameters" see col. 4, lines 39 – 50, col. 6, lines 44 - 50 of Wesinger.

- " Each parameter is set with a corresponding value associated with the data item thereby forming a set parameter" see col. 10, lines 65 – col. 11, lines 4 of Wesinger.

- " An external application different than the research system accessing one or more nodes... and obtaining data from the one or more node by utilizing an application programming interface associated with the research system" See Fig. 1A, element 103. An "application programming interface" corresponding to the server 105.

- Users access the directory by a query. The query includes keywords that defined the navigation path. Users access the directory by a query (see col. 10, lines 65 – col. 11, lines 4 of Wesinger. A user can specify the resource by selecting a category and set up one or more set parameters); therefore the navigation path is defined by a query language string.

- "Utilizing a search module including keyword search, hierarchical search, parametric search, and dichotomous key search, wherein accessing each of the nodes within the directory tree structure each of the search methodologies including keyword search, hierarchical search, parametric search, and dichotomous key search, are available" See Fig. 2H. In fig. 2H, Wesinger also allows the users multiple search methods, including:

  - Keyword search

  - Hierarchical search corresponds to categories search.

  - Parametric search corresponds to Example search.

Wesinger clearly discloses a query language string which is a command string written according to a query language (See col. 4, lines 8 – 11 of Wesinger).

The Wesinger reference fails to disclose the dichotomous key search. However, this method search is a well known in the art. Stuart provides an example of it.

Stuart teaches that a dichotomous key search is used to search for data in the database (See Abstract).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Stuart into the invention of Wesinger because Wesinger suggested that multiple search method are available for user and the combination would reduce the memory access when using binary search, and providing user more search methodologies.

♦ As per claims 2, 10, 18, 26, the combination of Wesinger and Stuart disclose:

  - " The applications programming interface accesses the one or more nodes… using a query string defining a navigation path" Wesinger clearly discloses a query language string which is a command string written according to a query language (See col. 4, lines 8 – 11 of Wesinger).

♦ As per claims 3, 11, 19, 27, the combination of Wesinger and Stuart disclose:

  - "Links to other nodes within the directory tree structure, links to web sites external to the electronic system" See col. 4, lines 39 – 50, col. 6, lines 44 - 50 of Wesinger.

♦ As per claims 4, 12, 20, 28, the combination of Wesinger and Stuart disclose:

  - "The searchable database is distributed into more than one physical location" See Fig. 1A, wherein more than one databases are presented.

♦ As per claims 5 - 7, 13 – 15, 21 – 23, 29, the combination of Wesinger and Stuart disclose:

- "Accessing one or more nodes is performed by a server" See Fig. 2K, col. 5, lines 53 – 55

  of Wesinger.

- "Establishing an Internet connection with the server" See Fig. 1A- 1B of Wesinger.

Response to Arguments

9.   Applicant's arguments with respect to claims 1 – 7, 9 – 15, 17 – 23, 25 – 29, and 31 - 32

have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272 - 4024.

The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Safet Metjahic can be reached on (571) 272 - 4023. The fax phone number for the

organization where this application or proceeding is assigned is 571 – 273 - 8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen, Cam-Linh

Art Unit 2161

SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100